

Notice of Allowability

Application No.

09/351,102

Examiner

Alicia Chevalier

Applicant(s)

BONKOWSKI ET AL.

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed on November 12, 2003.
2. ☒ The allowed claim(s) is/are 9-22 and 53-57.
3. ☒ The drawings filed on 08 July 1999 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 02102004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

ATTACHMENT TO NOTICE OF ALLOWABILITY

1. The Double Patenting rejections of claims 9-13, 18-22 and 53-57 over certain claims of SN 09/489,250, made of record in paper #30, mailed July 25, 2003, pages 2-6, paragraphs #3-5 have been withdrawn due to Applicant's express abandonment of Application No. 09/489,250 on November 12, 2003.

2. Claim 9 is generic and allowable. Accordingly, the election requirement as to the encompassed species is hereby withdrawn and claims 14-17, directed to non-elected species, are no longer withdrawn from consideration, since all of these claims depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the election requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37

Art Unit: 1772

CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

4. Authorization for this examiner's amendment was given in a telephone interview with David O. Seeley on February 10, 2004.

In the claims:

Cancel claims 7 and 23-52.

Remarks:

The purpose of canceling the claims are because the claims are directed to different species which no allowed generic claim.

REASONS FOR ALLOWANCE

5. The following is an examiner's statement of reasons for allowance:

The elected base claims are: claims 9, 53 and 57.

They can be summarized as follows:

9. A security article comprising:

- a light transmissive substrate
 - o first surface having a diffraction grating pattern or a holographic image pattern
 - o second surface being substantially planar

Art Unit: 1772

- a color shifting multilayer optical film on the second surface of the substrate, comprising
 - o an absorber layer on the second surface
 - o a dielectric layer on the absorber; and
 - o a reflector layer on the dielectric layer
- wherein the optical film provides an observable discrete color shift such that the article has a first background color as a first angle or incident light or viewing and a second background color different from the first background color at a second angle of incident light or viewing, and
- wherein the article exhibits an optical diffraction grating pattern effect or a holographic image pattern effect in addition to the first and second background colors.

53. A security article comprising:

- a visible light transmissive substrate
 - o first surface having an optical interference pattern
 - o opposing second surface
- a color shifting optical film on the second surface of the substrate, comprising
 - o an absorber layer on the second surface
 - o a dielectric layer on the absorber; and
 - o a reflector layer on the dielectric layer
- wherein the optical film provides an observable discrete color shift such that the article has a first background color as a first angle or incident light or viewing and a

Art Unit: 1772

second background color different from the first background color at a second angle of incident light or viewing, and

- wherein the article exhibits an optical interference effect in addition to the first and second background colors.

57. A security article comprising:

- a light transmissive substrate
 - o first surface having an holographic image pattern
 - o opposing second surface
- a color shifting optical film on the second surface of the substrate, comprising
 - o an absorber layer on the second surface
 - o a dielectric layer on the absorber; and
 - o a reflector layer on the dielectric layer
- wherein the optical film provides an observable discrete color shift such that the article has a first background color as a first angle or incident light or viewing and a second background color different from the first background color at a second angle of incident light or viewing, and
- wherein the article exhibits a holographic image pattern effect in addition to the first and second background colors.

6. The closest prior art found can be summarized as follows:

Uyama (US Patent 5,700,550) discloses a transparent hologram seal comprising a transparent base member, a release layer, a hologram forming layer, transparent color shifting evaporated layers, a color layer an anchor layer and an adhesive layer (*figure 8*). The optical

path length in the transparent evaporated layer is changed if an angle at which it is viewed is changed when a visible light ray of specified wavelength range is transmitted or reflected, and the transmission light or reflected light is observed as a light of different color. Therefore, even when the seal is superficially forged, it is easy to determine the real or imitation by observing a change in color caused by changing the viewing angle. In general, the spectral characteristics vary depending on the number of layers of the evaporated layer. See column 6, lines 25-34.

Uyama fails to teach or suggest the recited optical film comprising and absorber layer, a dielectric layer and a reflector layer or the article exhibiting an optical interference/ holographic image pattern/ optical diffraction grating pattern effect in addition to the first and second background observable discrete color shift.

Coombs (US Patent 5,214,530) discloses an optical variable interference device, which has an observable color change at different viewing angles. The device can be utilized in optically variable interference devices or optical shifters for a thin film design. Coombs' design has made it possible to achieve additional observable colors. See column 1, lines 10-24. The device comprises an absorber layer, a dielectric layer, an absorber layer, a dielectric layer, a reflector, a dielectric layer, an absorber layer, a dielectric layer, and an absorber layer (figure 2).

Coombs fails to teach or suggest the recited substrate having a first surface having a diffraction grating pattern/ an optical interference pattern/ an holographic image pattern or the article exhibiting an optical interference/ holographic image pattern/ optical diffraction grating pattern effect in addition to the first and second background observable discrete color shift.

In sum, the prior art of record fails to teach or suggest a security article having all the features of the base claim(s).

Art Unit: 1772

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

2/13/04



S. M. Nolan
SANDRA M. NOLAN
PRIMARY EXAMINER